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10/523,914	10/17/2005	Akihiko Ikawa	4230-121	9460

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EXAMINER

GEBREMICHAEL, BRUK A

ART UNIT	PAPER NUMBER
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3709

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10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,914

Applicant(s)

IKAWA ET AL.

Examiner

Bruk A. Gebremichael

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 02/07/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 7 are rejected under 35 U.S.C. 102(b) as being unpatentable over Tohgi 6,211,451.

Regarding claims 1 and 7, Tohgi discloses a music training method/system having a user terminal (FIG 1, labels 2-4), for executing training for user by using music data of an original work, a trainer terminal (FIG 1, label 1) for generating training information for user skill acquisition, a server for carrying out communications with the user terminal and the trainer terminal over a network (FIG 1, label 5 and col.4, lines 9-13), the trainer terminal comprising a generating means for generating, based on trainer instructions, training information related to the original work music data (col.2, lines 1-2 and col.3, lines 1-8), a transmitting means for transmitting generated training information to the server (col.4, lines 25-30), the server comprising a distributing means for distributing received training information to the user terminal (col.4, lines 22-30 and col.5, lines 19-25), a user terminal comprising a playback means for repeatedly playing back the original work music data based on distributed training information (col.4, lines 13-15 and FIG 9).

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Regarding claim 4, Tohgi discloses, the training system characterized in that the generated training information includes additional information to be played back in association with music data (col.4, lines 22-30), and the user terminal further comprising outputting means for outputting the additional information in association with music data in accordance with a control program included in distributed training information (col.4, lines 30-36 and FIG 9).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tohgi 6,211,451 in view of Nishimoto 6,703,549.

Tohgi discloses the claimed limitations as discussed above.

Regarding claim 2, Tohgi further discloses the user terminal playback means specifies parts to be played back in the music data on the basis of the distributed training information (col.6, lines 66-67 through col.7, lines 1-11 and FIG 4), and repeatedly plays back the specified parts (FIG 9, label C).

However, Tohgi fails to disclose the generated training information including break information for showing arbitrary breaks in music data.

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Nishimoto from analogous art teaches the generated training information including break information for showing arbitrary breaks in music data (col.4, lines 36-44 and FIGs 8A-8C).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by including a break information in the music data in order to generate musical tone control information as taught by Nishimoto (col.4, lines 36-44).

Regarding claims 3, Tohgi further discloses the generated training information including a control program for controlling the playback of music data (col.2, lines 17-22), and the user terminal playback means repeatedly playing back music data based on the control program included in distributed training information (col.6, lines 41-46 and FIG 9, label C).

However, Tohgi fails to disclose the control program controlling the playback of the music data on the basis of the break information and, the user terminal playback means referencing the break information in accordance with the control program.

Nishimoto from analogous art teaches a control program controlling the playback of the music data on the basis of the break information (col.4, lines 36-44 and also FIGs 8A-8C) and, the user terminal playback means referencing the break information in accordance with the control program (see FIG 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by

incorporating break information in the control program in order to generate musical tone control information as taught by Nishimoto (col.4, lines 36-44).

Regarding claims 5, Tohgi further discloses characterized that the generated training information includes music data corresponding to the training information (col.4, lines 30-36), and the user terminal comprising a determination means for music data intended for playback (col.7, lines 15-34 and FIG 4).

However, Tohgi fails to disclose the generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition.

Nishimoto from analogous art teaches a generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition (col.3, lines 36-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by including a characteristic information in the generated training information in order to obtain a variety of expressive performance outputs as taught by Nishimoto (col.3, lines 44-47).

Regarding claim 8, Tohgi in view of Nishimoto teaches the claimed limitations as discussed above.

Tohgi further teaches the generated training information including a control program for controlling the playback of music data (col.2, lines 17-22), and the user terminal playback means repeatedly playing back music data based on the control

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program included in distributed training information (col.6, lines 41-46 and FIG 9, label C).

However, Tohgi fails to disclose the control program controlling the playback of the music data on the basis of the break information and, the user terminal playback means referencing the break information in accordance with the control program.

Nishimoto from analogous art teaches a control program controlling the playback of the music data on the basis of the break information (col.4, lines 36-44 and also FIGs 8A-8C) and, the user terminal playback means referencing the break information in accordance with the control program (see FIG 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by incorporating break information in the control program in order to generate musical tone control information as taught by Nishimoto (col.4, lines 36-44)

Regarding claims 9 and 10, Tohgi in view of Nishimoto teaches the claimed limitations as discussed above.

Tohgi further discloses, the training system characterized in that the generated training information includes additional information to be played back in association with music data (col.4, lines 22-30), and the user terminal further comprising outputting means for outputting the additional information in association with music data in accordance with a control program included in distributed training information (col.4, lines 30-36 and FIG 9).

Regarding claim 11 and 12, Tohgi in view of Nishimoto teaches the claimed limitations as discussed above.

Tohgi further discloses characterized that the generated training information includes music data corresponding to the training information (col.4, lines 30-36), and the user terminal comprising a determination means for music data intended for playback (col.7, lines 15-34 and FIG 4).

However, Tohgi fails to disclose the generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition.

Nishimoto from analogous art teaches a generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition (col.3, lines 36-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by including a characteristic information in the generated training information in order to obtain a variety of expressive performance outputs as taught by Nishimoto (col.3, lines 44-47).

Regarding claim 13, Tohgi discloses characterized that the generated training information includes music data corresponding to the training information (col.4, lines 30-36), and the user terminal comprising a determination means for music data intended for playback (col.7, lines 15-34 and FIG 4).

However, Tohgi fails to disclose the generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition.

Nishimoto from analogous art teaches a generated training information including characteristic information of music data, which is extracted in accordance with a prescribed extraction condition (col.3, lines 36-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Nishimoto by including a characteristic information in the generated training information in order to obtain a variety of expressive performance outputs as taught by Nishimoto (col.3, lines 44-47).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tohgi 6,211,451 in view of Hasegawa 6,426,455.

Tohgi discloses the claimed limitations as discussed above. However, Tohgi fails to disclose the server further comprising a calculation means for calculating, in accordance with the distribution status of training information, an amount to be billed to a user and an amount to be paid to a trainer.

Hasegawa from analogous art teaches a server having a calculation means for calculating, in accordance with the distribution status of training information, an amount to be billed to a user and an amount to be paid to a trainer (col.1, lines 66-67 through col.2, lines 1-18 and FIG 6).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Tohgi in view of Hasegawa by incorporating a calculating means in the server in order to determine the fee related to the user's practice as taught by Hasegawa (col.1, lines 66-67 through col.2, lines 1-18 and FIG 6).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruk A. Gebremichael whose telephone number is (571)270-3079. The examiner can normally be reached on Monday to Friday (7:30AM-5:00PM) ALT. Friday OFF.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenburg can be reached on (571)272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



B.G.
09/27/2007.


KIMBERLY S. SMITH
PRIMARY EXAMINER

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